

**UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
BISMARCK, ND 58502**

July 21, 2006

SUBJECT: Calculating Recapture on Direct Single Family Housing
Loans with Early Payoffs

TO: All Rural Development Offices in North Dakota

PURPOSED/INTENDED OUTCOME:

The purpose of this North Dakota Administrative Notice (AN) is to provide guidance on determining appraised value and calculating subsidy recapture in cases where subsidized borrowers have unknowingly paid off their direct Single Family Housing (SFH) loans early and are being notified of recapture due. As a result of the way payments were applied in the past, many borrowers with older accounts will pay off their loans earlier than the maturity date.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 1443 (HB-2-3550) which has expired.

IMPLEMENTATION RESPONSIBILITIES:

Until January 1990, subsidized payments were applied based on the reduced interest rate as calculated by the Interest Credit Agreement. Applying the monthly installment at a reduced interest rate was equal to having a substantial curtailment credited each month. Additional reductions of principal were compounded until 1990 when the subsidized payment was changed so that interest accrued based on the note rate.

An example of the impact this earlier policy is having is that in the early 1980's many borrowers obtained loans with high interest rates of 13 and 13.5 percent and received subsidy at a 1 percent interest rate. With payments being applied at the lower interest rate, the principal balance was reduced several years earlier than the actual maturity date of the loan.

EXPIRATION DATE:
July 31, 2007

FILING INSTRUCTIONS:
Following ND Supplement
Appendix 7 of HB-2-3550

The longer a loan received the benefit of a 1 percent accrual, and the higher the corresponding note rate, the greater the reduction in loan term. At this time, many of these borrowers are unknowingly making the final installment with payment of their regularly scheduled mortgage payment.

These early payoffs are creating issues in field offices when a borrower unexpectedly pays off their loan early and is informed that they owe an enormous amount of recapture. When a loan is paid in full, borrowers are automatically notified by letter that they have 60 days to submit an appraisal for calculation of recapture. The letter also informs the borrower that they will receive a 25 percent discount if they elect to pay the recapture owed within 60 days. The following guidance will hopefully provide a more efficient method of handling these unusual cases.

PROPERTY VALUATION

The initial version of the Subsidy Repayment Agreement (1979) indicates the amount of subsidy to be repaid to the Government will be based on an appraised value determined by the Agency. An abbreviated or limited appraisal (shows the market comparison only) or assessed value may also be used if you believe that would adequately reflect market value. However, if an assessed value is used, a statement from the field office indicating that the assessed value accurately reflects the market value must be included. (The field office will need to document in the file the evidence on which their conclusion is based that the assessed value would be the same as the appraised market value.)

If an outside appraisal is needed, the Agency will incur the cost and the borrower will not be charged. Costs associated with obtaining an appraisal in these instances will be paid from recoverable Program Loan Cost Funds using the “Direct Loan Financing Account” (R funds) and code “S1B1”. The borrower’s name and account number should not be included on the AD-838 form. We do; however, recommend including the property address as well as a statement indicating the charge is for an appraisal. Field or state office staff will review the appraisals and the Centralized Servicing Center (CSC) will accept their value determinations.

CUSTOMER NOTIFICATION – CSC AND FIELD OFFICE INTERFACE

Revised notification letters were developed to clarify the explanation of why recapture is due; and, to inform borrowers of the process they should follow relative to payment of subsidy recapture. An explanation of how the borrower may receive consideration for capital improvements is also addressed in the revised letter. The time allotted for these borrowers to pay recapture owed is extended to 120 days; otherwise, the recapture will be deferred and set up as a receivable account. Copies of these letters are attached for your information.

When CSC becomes aware that an account has paid off in this fashion, they will task the field using Task #590 *P & I PIF/Recap Receivable Established*. **DO NOT RELEASE THE SECURITY INSTRUMENTS**. The expiration timeframe will be 60 days. At the same time, Task #589 *Early Payoff Notification* will be sent to the State Office queue. The expiration timeframe will be 45 days to allow for follow-up before the 60 days expire. This will be an indication that Letter #1, the “Congratulations” letter, has been sent from CSC and that the field should begin the process

to have the market value established. An appraisal/valuation should not be completed until the borrower has indicated whether they are seeking credit for capital improvements. Field offices will need to establish a “tickler” for the capital improvement form or contact the borrower directly for this information. You will have a total of 60 days to provide the market valuation to CSC. Once market value is determined, a request for calculation of recapture should be faxed to the Payoff Section at 314-206-2113. The packet should contain a cover letter stating the purpose of the request, a contact person, fax number and a copy of all supporting documentation.

CSC will send Letter #2 giving the borrower 120 days to either pay the calculated recapture amount owed, or defer payment. CSC will also fax a copy of the letter to the field office. The case file should be marked as a recapture receivable account. Settlement values used by CSC can be viewed on the RHCD Recap Calc screen. If the borrower pays the recapture, the field will get the standard queue to prepare the release.

WORKING WITH PREVIOUSLY AFFECTED BORROWERS

This payment application method has impacted many existing accounts over the past couple of years. Evidence indicates many borrowers may not have understood the situation. As a result, these borrowers have recapture receivable accounts established for the full amount of subsidy received. At the recent SFH Policy Meeting, the CSC provided each state with a list of all recapture receivable accounts. An updated list will be forthcoming within the next 2 weeks. We are requesting that field offices with accounts on this list review the system notes and determine if a maximum recapture receivable account was established for a borrower who unknowingly paid their loan off early.

In these situations you are authorized to start the process to have CSC calculate the subsidy recapture based upon the current market value using the aforementioned guidance and the sample letters attached. In those cases, the field office will send Letter #1, the “Congratulations” letter to the borrower, appropriately modified to change references to “your local field office”, and noting the FASTeller system. Thereafter, the above referenced guidance will be followed from the point of determining market value and faxing a request to the Payoff Section. CSC is authorized to correct the recapture receivable amount in these cases.

/s/ Clare A. Carlson
Clare A. Carlson
State Director

Attachments:

Letter #1 with Capital Improvements explanation
Letter #2

RE: Account number(s)

Dear Homeowner:

Congratulations! You have made the final principal and interest payment on your Rural Housing Service single family housing loan. Your account now reflects a zero balance on the principal amount that you borrowed. However, as you are aware, you received a payment subsidy during the life of the loan. The total amount of payment subsidy you received is \$_____. In accordance with terms of the Subsidy Repayment Agreement you signed at loan closing, you must repay all or a portion of the subsidy you received which is known as subsidy recapture. The actual amount of subsidy recapture to be repaid depends on several factors, some of which we need your help to establish.

What are the next steps?

To calculate the actual amount of subsidy recapture you owe, the current market value of your home must be determined. Market value is typically determined by obtaining a residential appraisal report. Your local field office will contact you to arrange for an appraisal. In some states, we may use local assessed values if they adequately reflect market value. You will not be charged for the appraisal.

Do I get credit for home improvements I made?

Yes, you may receive credit for the value of certain home improvements (also known as capital improvements). The attached sheet explains capital improvements. If you made capital improvements and want to receive credit for their value, you must complete the attached form and send it to your local field office within 10 days. The field office address is listed at the end of this letter.

What the Agency will do.

When the market value is determined, your local field office will notify the Centralized Servicing Center (CSC). CSC will calculate the amount of subsidy recapture you owe and advise you by letter within 10 days. You will be given the opportunity to pay off the subsidy recapture in a lump sum, defer repayment or make periodic payments. The letter you receive advising you of the amount of subsidy recapture you owe will contain more details.

What if I have questions?

If you need assistance you may call our Customer Service Department at 1-800-414-1226 from 7 a.m. to 5 p.m., Central Time. If you have questions regarding the appraisal process, you should contact your local field office. Please have your account number and social security number ready when you call.

Sincerely,

Centralized Servicing Center
Rural Housing Service, USDA

Enclosure

Field Office Address and Telephone Number:

RE: Account number(s)

Dear Homeowner:

Why we are writing.

Recently, you were notified that you had made a final payment on your rural housing loan and the amount of subsidy to be recaptured would have to be calculated. The local field office determined the market value of your property so that we could calculate the amount of subsidy recapture you owe. Over the life of your loan you received payment subsidy in the total amount of \$_____. However, based on calculations completed in accordance with your Subsidy Repayment Agreement, the actual amount of subsidy recapture you owe is \$_____.

What you need to do now.

You may choose from the following two options:

1. You may pay the total amount owed **within 120 days from the date of this letter**, either by refinancing or with personal funds. (NOTE: Rural Housing Service does not make loans to refinance subsidy recapture.) Paying the full amount within 120 days entitles you to a 25 percent discount from the amount you owe which leaves a balance due of \$_____. The payoff should be sent to the following address:

USDA, Rural Housing Service
P. O. Box 790301
St. Louis, Missouri 63179

Or,

2. You may defer payment of the amount due until you sell or move out of the house. The amount due will be set up as a recapture receivable account. No interest will be charged and you will not be required to make scheduled payments. However, if you elect to make payments you may do so. Selecting this option does not provide you with the opportunity for a 25 percent discount now or in the future. If you choose to make payments, they should be sent to the address directly above.

What if I disagree with the appraised value or amount of recapture?

The CSC representatives will be happy to explain how the amounts were determined. If Agency representatives are unable to resolve any disagreement over the value of your house you can obtain an appraisal (at your expense) to establish a valuation. CSC and the local field office will determine if the new appraisal more accurately reflects the value and advise you accordingly.

What if I don't do anything?

If you do not repay the subsidy on your loan within 120 days after being notified of the amount due, a recapture receivable account will be established and the lien will remain on the property until the total amount due is paid. You will not be eligible for the 25 percent discount.

What if I have questions?

If you need assistance you may call our Customer Service Department at 1-800-414-1226 from 7 a.m. to 5 p.m., Central Time. Please have your account number and social security number ready when you call.

Sincerely,

Centralized Servicing Center
Rural Housing Service, USDA